IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

THURSDAY, THE 24TH MAY 2007 / 3RD JYAISHTA 1929

Crl.MC.No. 1022 of 2007()

CRIME NO.371/06 OF NEDUMANGAD POLICE STATION

PETITIONER: ACCUSED

BIJUKUMAR, AMBADI HOUSE, CHANDRA
MANGALAM, ANAD, NEDUMANGAD, TRIVANDRUM.

BY ADV. SRI.T.A.UNNIKRISHNAN
SRI.K.SATHEESH KUMAR

RESPONDENTS: COMPLAINANT

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1. STATE OF KERALA, REP. BY
PUBLIC PROSECUTOR,
HIGH COURT OF KERALA,
ERNAKULAM.

2. SANDHYA, AGED 27 YEARS, W/O.BIJUKUMAR,
AMBADI, CHANDRAMANGALAM, ANAD, TRIVANDRUM.

R1 BY PUBLIC PROSECUTOR SRI. GIKKU JACOB
R2 BY ADV. SRI. BIJU

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 24/05/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

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Crl.M.C.No. 1022 of 2007

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Dated this the 24th day of May, 2007

O R D E R

The petitioner is the first accused in a crime registered at the Nedumangad Police Station of Trivandrum District. The crime has been registered against the petitioner, his mother, his sister and his nephew (accused 1 to 4) on the basis of a complaint lodged by the second respondent herein, who is the wife of the petitioner. The crime has been registered under Section 498A r/w. 34 I.P.C. against all the four accused persons. Matrimonial cruelty of culpable variety is alleged against the accused.

2. Investigation is in progress. The petitioner and the co-accused have not been arrested. The petitioner at this stage has come to this Court with this petition under Section 482 Cr.P.C. with a prayer that the F.I.R. registered against him may be quashed. It is submitted that the spouses have settled their disputes harmoniously. They have resumed cohabitation. The continuance of the proceedings initiated under Annex. I F.I.R. is causing unnecessary strain in their

relationship. In these circumstances the F.I.R. may be quashed, it is prayed.

3. The second respondent has entered appearance through counsel. A joint application, Crl.M.A. 2638 of 2007, has been filed by the petitioner and the defacto complainant. In that it is categorically stated that the disputes have been settled and the spouses are residing happily now. There are two children in the wedlock also. The second respondent has no surviving grievance against the petitioner or the co-accused. It is in these circumstances prayed that the F.I.R. may be quashed.

4. The second respondent is represented by counsel. The counsel confirms that the matter has been settled between the parties. The counsel vouches for the signature of the second respondent in the joint application for composition.

5. I am satisfied from the submissions made at the Bar and the joint statement filed by the parties that the parties have settled their disputes amicably. I am satisfied that the composition and the settlement, if legally permissible, can be accepted and the prosecution can be quashed.

6. The offence under Section 498A I.P.C. is not legally compoundable and the composition cannot be accepted under Section 320

Cr.P.C. But the learned counsel for the petitioners relies on the decision in **B.S. Joshi** v. **State of Haryana** (AIR 2003 SC 1386). The said decision is authority for the proposition that at times the interests of justice may transcend the interests of mere law and in such circumstances the provisions of Section 320 Cr.P.C. cannot be reckoned as a fetter on the sweeping powers of the Court under Section 482 Cr.P.C. to act in aid of justice. I am satisfied in the facts and circumstances that this is an eminently fit case where powers under Section 482 Cr.P.C. can be invoked and further proceedings quashed.

5. This Crl.M.C. is hence allowed. C rime No. 371 of 2006 pending before the Nedumangad Police Station of Trivandrum Dist. against the petitioner is hereby quashed.

(R. BASANT)
Judge

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